

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO.1MUMBAI

Present : Justice RavindraNathKakkar

M/s. Monarch Developers ... Appellant

Vs

Assistant Provident Fund Commissioner ... Respondent
Thane

Presence:

For the Appellant : Mr.H.L.Chheda (Authorized Representative)

For the Respondent :Mr. Ravi Rattesar Adv.

ORDER

1. The present appeal is filed by the appellant under section 7(I) of the EPF & MP Act, 1952 (hereinafter referred to as 'Act') against the order dated 27.10.2020 passed by the Assistant Provident Fund Commissioner, the Respondent under section 7-A of the Act for an assessed amount of Rs.31,16,366/-,for the period March 2009 to May 2016. The said order dated 27.10.2020 was received by the Appellant on 02.11.2020.An appeal against the impugned order dated 27.10.2020 was filed on 18.01.2021.
2. Along with this appeal, three Miscellaneous Applications (1) Condonation of delay (2) Application for Waiver of deposit under proviso to Section 7-O and (3) Application for grant of stay has also been filed by the Appellant. The Respondent was granted time for filing replies to above misc. applications.
3. The appellant submitted that the present appeal is filed within 120 days, however fairly admitted that same is filed after 60 days with a delay of



about 15 days from completion of 60 days. The appellant further submitted that due to restrictions imposed by the local authorities, the delay^{is} of about 15 days in filing. The learned Counsel for Appellant further submitted that the Hon'ble Supreme Court of India, on March 23rd 2020, considering the spread of coronavirus and lockdowns, passed an order with effect from 15th March 2020, in Writ Petition (Civil) No (S) 3/2020 has extended the period of limitation prescribed under General or Special laws, whether condonable or not has extended w. e. f. 15-03-2020 till further order which reads:- *"To obviate such difficulties and ensure that lawyers/litigants do not have to physically to file such proceedings in respective courts/ tribunals across the country including this court, it is hereby ordered that a period of limitation in all such proceedings, irrespective of the limitation period prescribed in all such proceedings, irrespective of the limitation period prescribed under the Special law or general law whether condonable or not shall stand extended w. e. f. 15th March 2020 till further order/s to be passed by this court in present proceedings"*. The above stated order is passed by the Supreme Court of India invoking its powers under Article 142 of the Constitution of India, which empowers Supreme Court of India to pass such "decree or order as may be necessary for doing complete justice between the parties". Invoking the above said powers, Hon Supreme Court of India passed the above said order "suo-moto".


4. The Appellant further stated that, the Hon^{ble} Supreme Court of India, on 27.04.2021 in the same petition further ordered the extension of the limitation period till further period considering the difficulties faced by litigations due to spread of the coronavirus in its second wave by observing *"It is further clarified that the period from 14th March, 2021 till further orders shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996,*



Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings". The appellant hence submitted that the present appeal is within the ^{extended period of} limitation period prescribed as per Rule 7(2) of the Employees' Provident Fund Appellate Tribunal (Procedures) Rules, 1997 considering the directions issued by the Apex Court and prayed for condonation of delay of 15 days in filing the Appeal memo.

5. Learned counsel for the Respondent opposed the delay condonation application and prayed for dismissal, however did not denied on the ^{Hon'ble} Apex Court's citations referred by the Appellant.
6. Perused the record and heard the parties.
7. Considering the facts and circumstances of the case, the grounds shown in the delay condonation application is found to be bonafide and genuine and also in view of the ratio laid down by the Hon'ble Supreme Court of India as mentioned above, the computation of period of limitation in filing this appeal is to be excluded.
8. Accordingly for the reasons stated above, this delay condonation application is to be allowed and accordingly allowed.
9. Miscellaneous application EPF-07 (C) is disposed of accordingly.



लघु प्रतिलिपि
TR COPY

Secretary to the Court
Central Government Industrial
Tribunal-cum-Labour Court No. 1
Mumbai


JUSTICE RAVINDRA NATH KAKKAR
PRESIDING OFFICER